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REMARKS

Claims 1-24, 26, and 27 are currently pending in the subject application and are presently under consideration. Claims 1-23 and 26-27 have been amended as shown on pages 2-7 of the Reply. Favorable reconsideration of the subject patent application is respectfully requested in view of the comments and amendments herein.

**I. Rejection of Claim 14 Under 35 U.S.C. §101**

Claim 14 stands rejected under 35 U.S.C. §101 because the Examiner asserts that the claimed invention is directed to non-statutory subject matter. In particular, the Examiner states, "the computer readable medium as disclosed in the specification, page 28, lines 28-32, comprises a communication media, which can be a carrier wave. Carrier wave[s] represent a non-statutory subject matter." (See Office Action dated September 29, 2005, page 2). This rejection should be withdrawn for at least the following reasons. The Examiner is attempting to incorporate limitations from the specification into the subject claim; and the computer readable medium as disclosed in the specification is specifically elucidated at page 28, lines 21-28, not page 28, lines 28-32 as the Examiner suggests.

While applicants' representative is cognizant that claims must be given their broadest reasonable interpretation consonant with the specification, (*see In re Hyatt*, 211 F.3d 1367, 1372, 54 USPQ2d 1664, 1667 (Fed. Cir. 2000)), the broadest reasonable interpretation of the claims must nevertheless be consistent with the interpretation that those skilled in the art would reach, (*see In re Corright*, 165 F.3d 1353, 1359, 49 USPQ2d 1464, 1468 (Fed. Cir. 1999)). Moreover, the limitations from the specification must not to be read into the claims. *See In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). In view of the foregoing it is applicants' representative's contention that the Examiner is impermissibly reading limitations from the specification into the claims. The preamble of claim 14 recites: ***A computer readable medium containing computer executable components for a system for interacting with an object.*** Nowhere in the language of the claim is there mention of a carrier wave, but rather the claim clearly enunciates a ***computer readable medium***, which would be

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sufficient for one of ordinary skill in the art to perceive that the claim is directed toward a computer readable medium.

Moreover, the Examiner erroneously notes that page 28, lines 28-32 discloses a computer readable medium as comprising a communication media, which can be a carrier wave. Applicants' representative respectfully believes the Examiner has misread the relevant passage and has inadvertently and contextually misconstrued the cited passage. Page 28, lines 28-32 pertains to communication media, and specifically states: "Communication media typically embodies computer readable instructions, data structures, program modules or other data in a modulated data signal such as a carrier wave or other transport mechanism and includes any information delivery media." (Emphasis added). In contrast, page 28, lines 21-28, which specifically pertains to computer readable media states:

Computer storage media includes volatile and nonvolatile, removable and non-removable media implemented in any method or technology for storage of information such as computer readable instructions, data structures, program modules or other data. Computer storage media includes, but is not limited to, RAM, ROM, EEPROM, flash memory or other memory technology, CD-ROM, digital versatile disks (DVD) or other magnetic storage devices, or any other medium which can be used to store the desired information and which can be accessed by the computer 1212.

Thus, it is submitted that one of ordinary skill in the art on perusing the aforementioned passage, viz., page 28, lines 21-28, would comprehend that a computer readable medium would relate to a computer storage media rather than a communication media as asserted by the Examiner, and therefore that the subject claim is directed toward statutory subject matter. Accordingly, this rejection should be withdrawn.

## **II. Rejection of Claim 23 Under 35 U.S.C. §101**

Claim 23 stands rejected under 35 U.S.C. §101 because the Examiner contends that the claimed invention is directed to non-statutory subject matter. In particular, the Examiner asserts, "the computer readable medium as disclosed in the specification, page

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28, lines 28-32, comprises a communication media, which can be a carrier wave. Carrier wave[s] represent a non-statutory subject matter.” (See Office Action dated September 29, 2005, page 2). This rejection should be withdrawn for at least the same reasons set forth above in connection with claim 14. Accordingly, withdrawal of this rejection is requested.

### III. Rejection of Claim 1-24, 26, and 27 Under 35 U.S.C. §102(e)

Claims 1-24, 26, and 27 stand rejected under 35 U.S.C. §102(e) as being anticipated by Cohen *et al.* (US 6,324,543). This rejection should be withdrawn for at least the following reasons. Cohen *et al.* fails to disclose all limitations set forth in the subject claims.

A single prior art reference anticipates a patent claim only if it *expressly or inherently describes each and every limitation set forth in the patent claim*. *Trintec Industries, Inc. v. Top-U.S.A. Corp.*, 295 F.3d 1292, 63 USPQ2d 1597 (Fed. Cir. 2002); See *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). The *identical invention must be shown in as complete detail as is contained in the ... claim*. *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989) (emphasis added).

#### Independent claims 1, 14, 15, 23 and 27

The invention as claimed relates to object systems, and more particularly to application developer coded extensible proxies that have access to method interception and remoting functionality and data. In particular, independent claims 1, 14, 15, 23 and 27, as amended, recite similar aspects, namely: *application code generic proxy component functionality modified by the application code based at least in part on the intercepted method call*. Cohen *et al.* fails to disclose or suggest these features of applicants' claimed invention.

Cohen *et al.* discloses a method and system that allows a program to become dynamically reconfigurable without programmer intervention, *i.e.*, the programs can be dynamically distributed among multiple computers within a computer network without

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modification to the source code of the programs running on the system. (See Abstract). Cohen *et al.* does not however, disclose or suggest modifying the functionality of the application code generic proxy based at least in part on the intercepted method call through utilization of application code as recited in the subject claims. Nowhere in Cohen *et al.* is this exemplary feature disclosed let alone suggested. Rather it appears that the cited document is directed to load balancing based on the relative loads on a local machine and remote machines instead of modifying the operation of the application code generic proxy based at least in part on the intercepted method call and application code. Thus it is submitted that the cited document and applicants' claimed invention are clearly distinguishable. Accordingly, withdrawal of the rejection of independent claims 1, 14, 15, 23 and 27 (and associated dependent claims) is requested.

**Independent Claim 24**

Independent claim 24 recites *one or more identifier/value pairs, the identifier identifying the value associated with the identifier/value pair, and the value providing information associated with an intercepted method call on an object.* Cohen *et al.* by the Examiner's own admission does not disclose these pertinent features of applicants' claimed invention. Rather the Examiner asserts that "it is inherent in Cohen's disclosure that data packets transmitted between computer processes comprise identifier/value pairs providing information associated with an intercepted method call on an object." (See Office Action dated September 29, 2005, page 4). Applicants' representative respectfully disagrees. Inherency cannot be established by probabilities or possibilities. The mere fact that a certain thing *may* result from a given set of circumstances is not sufficient. The disclosure, in this case Cohen *et al.*, must show that the natural result flowing from an operation as taught would result in the performance of the questioned function. See *e.g., In re Oelrich*, 666 F.2d 578, 581, 212 USPQ 323, 326 (CCPA 1981). It is submitted that Cohen *et al.* is silent with regard to the disclosure and utilization of identifier/value pairs and thus the supposed inherency upon which the Examiner relies to base this rejection is clearly absent.

In addition, the Examiner is reminded that the standard by which anticipation is to be measure is *strict identity* between the cited document and the invention as claimed, not

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mere similarity or equivalence. Thus in order to establish anticipation under 35 U.S.C. §102, a single cited document must not only expressly or inherently describe each and every limitation set forth in the patent claim, but also the identical invention must be shown in as complete detail as contained in the claim. Since Cohen *et al.* does not disclose, let alone utilize identifier/value pairs, there is sufficient substantiation to deduce that Cohen *et al.* does not describe all limitations set forth in the subject claim. Accordingly, it is submitted that the Examiner has failed to meet the sufficiency of his burden under 35 U.S.C. §102, and that the rejection with respect to independent claim 24, and associated dependent claims, should be withdrawn.

**IV. Rejection of Claims 1, 14, 15, 23, 24 and 27 Under 35 U.S.C. §103(e)**

Claims 1, 14, 15, 23, 24 and 27 stand rejected under 35 U.S.C. §102(e) as being anticipated by Moore *et al.* (US 6,282,581). Withdrawal of this rejection is requested for at least the following reasons. Moore *et al.* does not disclose each and every limitation set forth in the subject claims.

**Independent claims 1, 14, 15, 23 and 27**

As stated supra, independent claims 1, 14, 15, 23 and 27, as amended, recite: ***application code generic proxy component functionality modified by the application code based at least in part on the intercepted method call.*** Moore *et al.* fails to disclose these salient features of applicants' claimed invention.

Moore *et al.* relates to a communications framework operable to support remote method invocation in a distributed object environment. (See Abstract). However, the cited document does not disclose or suggest modifying the functionality of the application code generic proxy through utilization of application code based at least in part on an intercepted method. Nowhere in Moore *et al.* is this pertinent aspect of applicants' claimed invention disclosed or suggested. Accordingly, withdrawal of this rejection with respect to independent claims 1, 14, 15, 23 and 27 (and claims that depend there from) is respectfully requested.

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**Independent claim 24**

Independent claim 24 recites *one or more identifier/value pairs, the identifier identifying the value associated with the identifier/value pair, and the value providing information associated with an intercepted method call on an object*. Moore *et al.* does not disclose or suggest this exemplary aspect of applicants' claimed invention.

As stated *supra*, Moore *et al.* pertains to a communications framework operable to support remote method invocation in a distributed object environment, and in particular a communications framework for enabling processes in a distributed computing environment to use any of a number of communications protocols for remote method invocation on objects other than processes. (See Abstract and col. 7, lines 40-44). The Examiner contends that figure 7 of the cited document provides one or more identifier/value pairs providing information associated with an intercepted method call on an object. Applicants' representative avers to the contrary. Figure 7, and in particular ArgList class 261 and ArgList 701, depicts implementations for the methods `marshal_in()`, `marshal_out()`, `demarshal_in()`, and `demarshal_out()`, but does not disclose or suggest identifier/value pairs wherein the identifier identifies the value associated with the identifier/value pair, and the value provides information associated with an intercepted method call on an object. Accordingly, withdrawal of this rejection with respect to independent claim 24 (and claims that depend there from) is respectfully requested.

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CONCLUSION

The present application is believed to be in condition for allowance in view of the above comments and amendments. A prompt action to such end is earnestly solicited.

In the event any fees are due in connection with this document, the Commissioner is authorized to charge those fees to Deposit Account No. 50-1063 [MSFTP243US].

Should the Examiner believe a telephone interview would be helpful to expedite favorable prosecution, the Examiner is invited to contact applicant's undersigned representative at the telephone number below.

Respectfully submitted,

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